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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

<p>JILL NAPIWOCKI,</p> <p>Plaintiff,</p> <p>vs.</p> <p>YRC INC. and YRC INC. dba YRC FREIGHT;</p> <p>Defendants.</p>	<p>NOTICE OF REMOVAL</p> <p>Civil No. 2:21cv144</p> <p>Judge David Barlow</p>
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TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant YRC Inc. and YRC Inc. dba YRC Freight¹ (hereinafter “YRC”), by and through its counsel, hereby removes the above-captioned case to this Court from the Third Judicial District Court in and for Salt Lake County, State of Utah, pursuant to [28 U.S.C. §§ 1441 and 1446](#).

This removal is based upon the following grounds:

¹ YRC Freight is the dba of YRC Inc. Therefore, there is no distinction between YRC Inc. and YRC dba YRC Freight.

1. On February 17, 2021, a complaint in the civil action entitled *Jill Napiwocki v. YRC Inc. and YRC Inc. dba YRC Freight*, Civil No. 210900903, was filed and commenced in the Third Judicial District Court in and for Salt Lake County, State of Utah. (Complaint, attached as Exhibit 1.)

2. The Complaint alleges negligence causes of action under Utah state law. (*Id.* at 4.)

3. The Complaint alleges that Plaintiff Jill Napiwocki at all relevant times was a resident of Carbondale, Colorado. (*Id.* at 1.) Ms. Napiwocki is a therefore citizen of the State of Colorado for purposes of diversity jurisdiction. See [State Farm Mut. Auto. Ins. Co. v. Dyer](#), 19 F.3d 514, 520 (10th Cir. 1994) (“[T]he place of residence is *prima facie* [evidence of] the domicile.”).

4. The Complaint alleges that YRC is a foreign corporation located in Overland Park, Kansas. (Complaint, at 1-2.)

5. YRC is a wholly-owned subsidiary of Yellow Corporation. (Declaration of Doug Eaken, attached as Exhibit 2). YRC and Yellow Corporation are both incorporated under the laws of Delaware. (*Id.*)

6. YRC and Yellow Corporation are both headquartered in Overland Park, Kansas, where the corporations’ officers direct, control, and coordinate the corporations’ activities. (*Id.*)

7. YRC is therefore a citizen of the State of Kansas for purposes of diversity jurisdiction. See [28 U.S.C. § 1332\(c\)\(1\)](#).

8. The Complaint designates this action as a Tier 3 personal injury action under the Utah Rules of Civil Procedure (reserved for cases in excess of \$300,000). (Complaint, at 1, 7). Therefore, the amount in controversy is in excess of \$75,000.

9. Accordingly, the parties are completely diverse and the amount in controversy exceeds \$75,000. This Court therefore has original jurisdiction over the action pursuant to 28 U.S.C. § 1332 (diversity jurisdiction).

10. The action may therefore be removed to this Court pursuant to 28 U.S.C. § 1441(b).

11. This Notice of Removal is filed in a timely manner under 28 U.S.C. § 1446(b). Less than thirty (30) days have elapsed since the Complaint was filed in Utah state court.

12. A copy of this Notice of Removal is being served upon Plaintiff by and through her attorney of record, and upon the clerk of the Third Judicial District Court in and for Salt Lake County, State of Utah in Civil No. 210900903.

13. Attached as Exhibit 3 is a copy of all process, pleadings, and orders served upon YRC in this action.

Based upon the foregoing, YRC hereby removes this action from the Third Judicial District Court in and for Salt Lake County, State of Utah, to the United States District Court for the District of Utah, Central Division.

DATED: March 8, 2021.

SNOW CHRISTENSEN & MARTINEAU

/s/ Nathan R. Skeen

Nathan R. Skeen

R. Scott Young

Attorneys for YRC Inc. and YRC Freight

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of March, 2021, I electronically filed the foregoing **NOTICE OF REMOVAL** with the Clerk of the Court using the CM/ECF System:

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